

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2153 OF 2005

Khan Nafees Unisa

Petitioner

vs.

Jamaat & Madrasa Noorul Islam & ors.

Respondents

Mr.Mihir Desai for the petitioner.

Mr.Shaikh Nasir Masih for respondent no.1.

Ms.S.M.Dandekar, AGP for respondents 2 to 4.

**CORAM : F.I.REBELLO &
ANOOP V. MOHTA,JJ.**

DATED : 26th September, 2006

P.C.

Rule. Heard forthwith.

2. Petitioner is employed as an Assistant Teacher with respondent no.1. Petitioner was appointed by respondent no.1 as Head of the Institution. There is some dispute as to whether the appointment as Head is regular or temporary and that is the subject matter of different proceedings which for the present we need not go into.

3. The grievance of the petitioner is that her salary is not being paid either as Assistant Teacher or as a Head of the Institution. This is the limited controversy which we are called upon to decide.

4. Respondents 2 to 4 had released salary for the period from 23.12.1999 to 31.12.2001 and deposited the amount in the petitioner's account. By subsequent order, directions were issued not to pay the said amount. In the reply filed on behalf of the respondents 2 to 4 by Ashalata A. Yadav, Deputy Education Inspector it is sought to be pointed out that the financial burden of salary would be borne by the respondent no.1 for the services rendered from 23.12.1999. Reference is made to letter of appointment wherein it was set out that though the petitioner is appointed to the post of Principal, she should be paid salary as Assistant Teacher.

5. We have heard the learned counsel for the parties. There is no dispute that petitioner admittedly has been appointed as an Assistant Teacher and is a permanent teacher of the school. Her appointment has been approved. The dispute therefore, if any, would be in the matter of the petitioner working as Head of the Institution. There is no dispute that the petitioner otherwise has been discharging her duties as Assistant Teacher. Once that is the position, we fail to understand as to how the petitioner's salary as teacher is not being released. In the light of that, the following directions:

(i) The petitioner in paragraph 8 of the

petition has set out that for the period from 23.12.1999 to 31.12.2001 she is entitled to a sum of Rs.2,27,851/-. The Saraswat Cooperative Bank is directed to release the sum of Rs.2,27,851/- in the account of the petitioner in the same Bank.

(ii) In so far as the salary for the period from 1.3.2003 till date, we direct the respondents 2 to 4 to release salary grant for the said period within eight weeks from today and thereafter future salary. On the grant being received by respondent no.1, the same to be released in favour of the petitioner herein.

. Rule is made absolute accordingly. There shall be no order as to costs.

(F.I. REBELLO, J.)

(ANOOP V. MOHTA,J.)